

STATE OF MICHIGAN
COURT OF APPEALS

In re JONES/DUSHUANACK/WILLIS, Minors.

UNPUBLISHED
May 10, 2018

No. 340407
Oakland Circuit Court
Family Division
LC No. 17-849502-NA

Before: CAMERON, P.J., and FORT HOOD and GLEICHER, JJ.

PER CURIAM.

The circuit court adjudicated respondent-mother unfit and terminated her parental rights to her three minor children at the initial dispositional hearing based on her failure to protect the elder two children from sexual abuse. On appeal, respondent contends that the court interfered with her constitutional right to parent her children and that the court prematurely terminated her rights before the Department of Health and Human Services (DHHS) provided reunification services. These challenges are completely meritless and we affirm.

I

In March 2015, respondent married James Hurd and moved into his home with her three children. Respondent's eldest child, JLJ, reported during a Care House forensic interview that Hurd sexually abused the middle child, MRD, in front of JLJ. Hurd fondled MRD's vaginal area and once penetrated her vagina with his penis. JLJ reported that Hurd showed JLJ his penis and forced him to look at pornographic images. JLJ further asserted that respondent once walked in while Hurd was sexually assaulting MRD and hit Hurd, but did nothing to stop future abuse. Respondent only moved out of the home with her children when Hurd physically assaulted her in September 2016.

At the adjudication trial, respondent denied any awareness of the sexual abuse occurring in her home until after JLJ's Care House interview. However, Children's Protective Services investigator Holly Borkowski testified that respondent told her that Hurd "would text her while the children were in the home and ask her if she would ever touch her children or do inappropriate things with her children." Respondent "informed" Borkowski "that she would just go along with" these messages so Hurd "would leave her alone." Respondent also admitted to Borkowski that she knew Hurd had exposed his penis to JLJ in the home's garage and had shown JLJ "pornographic material on the tablet." Respondent even reported that Hurd had directly told her "that he tried to get [JLJ] to touch his penis."

The DHHS sought termination of respondent's parental rights in the initial petition without offering reunification services. The circuit court agreed that several grounds for termination existed based on respondent's failure to protect her children despite knowledge of the sexual abuse. The court conducted a separate hearing to consider whether termination of respondent's parental rights would be in the children's best interests. The court heard evidence regarding the children's improvement since being taken into care. Respondent took the stand and testified that she was then living with a new boyfriend, Jason Morris. Respondent was aware that Morris had served several years in prison but she did not know what his crimes were and did not think her lack of knowledge was important as the crimes occurred "15 years ago." The court ultimately found that termination of respondent's parental rights was in the children's best interests.

II

Respondent contends that she has a constitutional right to parent her children. In her appellate brief, respondent discusses caselaw defining this constitutional right. However, respondent does not in any way allege how the circuit court violated her constitutional right. Specifically, respondent does not contend that the circuit court erred in finding that statutory grounds supported the termination or that termination of her parental rights was in her children's best interests. Nor does she acknowledge that the state also has an interest in protecting children, which "is aligned with the child's interest to be free from an abusive environment." *In re Brock*, 442 Mich 101, 113 n 19; 499 NW2d (1993). Absent any substantive argument, respondent has abandoned her challenge in this regard. *Berger v Berger*, 277 Mich App 700, 712; 747 NW2d 336 (2008).

III

Respondent further contends that the DHHS failed to make reasonable efforts at family reunification before seeking termination of her parental rights.

"Generally, reasonable efforts must be made to reunite the parent and children unless certain aggravating circumstances exist." *In re Moss*, 301 Mich App 76, 90-91; 836 NW2d 182 (2013). When aggravating circumstances exist, the DHHS is not required to provide services and may seek termination of the parent's rights in the initial petition. *Id.* at 91. MCL 712A.19a(2) directs that reunification services are not required if any aggravating circumstances outlined in MCL 722.638 exist. In this case, reunification services were not required because an adult living in the children's home had sexually abused them, MCL 722.638(1)(a)(ii), and respondent "plac[ed] the child[ren] at an unreasonable risk of harm due to [her] failure to take reasonable steps to intervene to eliminate the risk," MCL 722.638(2). Accordingly, the circuit court did not err in terminating respondent's parental rights at the initial disposition.

We affirm.

/s/ Thomas C. Cameron
/s/ Karen M. Fort Hood
/s/ Elizabeth L. Gleicher